

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JAMES MYART, JR.	§	
	§	
PLAINTIFF	§	
VS	§	
	§	Civil Action No. _____
BEXAR COUNTY JUDGE NELSON	§	
WOLFF, BEXAR COUNTY DISTRICT	§	
ATTORNEY JOE GONZALES,	§	
BEXAR COUNTY SHERIFF	§	
JAVIER SALAZAR, BEXAR COUNTY	§	
MANAGER DAVID SMITH,	§	
BEXAR COUNTY COMMISSIONER	§	
JUSTIN RODRIGUEZ, ET.AL.	§	
	§	
DEFENDANTS	§	

NOTICE OF REMOVAL

COMES NOW, DEFENDANTS Bexar County Judge Nelson Wolff, Bexar County District Attorney Joe Gonzales, Bexar County Sheriff Javier Salazar, Deputy Sheriff J Cantu, Bexar County Manager David Smith and Bexar County Commissioners Justin Rodriguez (“Bexar County Defendants”), to file this Notice of Removal pursuant to 28 U.S.C. § 1446(a).

INTRODUCTION

1. On September 30, 2019, Mr. James Myart. Jr., filed “Plaintiffs Sworn Petition and Request for Ex Parte Temporary Restraining Order and Permanent Injunction” (“Plaintiff’s Petition”). See *James W, Myart Jr. v. Nelson Wolff, Bexar County Judge, in his Official and Individual Capacity, et.al.*; Cause No. 2019-CI-20602 in the 45th Judicial District Court. See Exhibit B. Attached as Exhibit A are the certified copies of the pleadings filed in this cause of action.

2. On October 21, 2019, Bexar County Judge Nelson Wolff, Bexar County District Attorney Joe Gonzales, Bexar County Sheriff Javier Salazar, Deputy Sheriff J Cantu, and Bexar County Manager David Smith filed an answer. See Exhibit A.

3. Defendants Bexar County Judge Nelson Wolff, Bexar County District Attorney Joe Gonzales, Bexar County Sheriff Javier Salazar, Deputy Sheriff J Cantu, Bexar County Manager David Smith and Bexar County Commissioners Justin Rodriguez file their notice of removal within the 30-day period required by 28 U.S.C. §1446(b).

BASES FOR REMOVAL

4. Removal is properly based on federal question pursuant to 28 U.S.C. §§ 1331, 1441(a) as found in Mr. Myart's Petition. See Exhibit B, a true and correct copy of Mr. Myart's Sworn Petition with the pages numbered. Mr. Myart states that "[t]his lawsuit represents a horrid expose of government abuse, the use of excessive force, violations of the United States Constitution Bill of Rights and the Texas Constitution and its Bill of Rights and well as well-established US federal and State statutes prohibiting detailed violations. " See Exhibit B, page 2.

a. Mr. Myart agrees that this matter is within the jurisdiction of the Western District of Texas Federal Court. See Exhibit B, page 3.

b. Mr. Myart complains that excessive force has been used against him in in violation of 42 U.S.C. §1983. See Exhibit B, page 9, 12 and 22. Mr. Myart references and argues that Bexar County is responsible for these actions pursuant to *Monel v. New York City Department of Social Services*. See Exhibit B, page 9 -10, 12-13. Mr. Myart asserts "[t]his conduct clearly violates 42 USC 1983 and the supervisory and Sheriff liability because this outrageous conduct is practiced at the Bexar County Jail to such an extent that it is now a custom

and practice for Deputies to injury inmates and to officially oppress them. “ See Exhibit B, page 9 and 12.

c. Mr. Myart claims that he has been maliciously prosecuted because of his race. See Exhibit B, page 8.

d. Mr. Myart states that the defendants action have violated the fourth, eight and fourteenth amendments to the United States constitution. See Exhibit B, page 22.

e. Mr. Myart states that defendants actions violate 42 U.S.C. §1985 in a conspiracy to defraud Mr. Myart and to cause him injury. See Exhibit B, page 23.

f. Mr. Myart seeks attorney’s fees pursuant to 42 U.S.C. §1988. See Exhibit B, page 23.

g. To the extent Mr. Myart sets forth any state law claims, the District Court shall have supplemental jurisdiction over the same.

5. Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants remove this action to the United States District Court for the Western District of Texas, San Antonio Division, which is the judicial district and division in which the State Court Action is pending.

6. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).

INDEX OF EXHIBITS

7. All file-stamped pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). Those filings consist of the following:

a) Exhibit A: Certified copy of all pleadings in State Court

JURY DEMAND

10. The Bexar County Defendants demands a jury trial.

CONCLUSION AND PRAYER

11. For these reasons, the Bexar County Defendants asks the Court to uphold this removal and to retain jurisdiction over this suit.

Respectfully submitted,

JOE D. GONZALES
Bexar County Criminal District Attorney

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CERTIFICATE OF SERVICE

I do hereby certify on the 29th day of October 2019, I electronically filed Defendants' Notice of Removal with the Clerk of Court and I do hereby certify delivery to the following as demonstrated below:

Mr. James Myart, Jr.
703 Canton
San Antonio Texas 78203

**By e-mail*

/s/ Susan A. Bowen
SUSAN A. BOWEN